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2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 FEDERAL NATIONAL MORTGAGE
7 ASSOCIATION,

8 Plaintiff,

9 v.

10 THEODORA JACKSON, including all
11 occupants of 11822 Reservoir Road East,
12 Puyallup, WA 98374,

13 Defendant.

CASE NO. C11-5363BHS

ORDER GRANTING
PLAINTIFF'S MOTION
TO REMAND

14 This matter comes before the Court on Plaintiff Federal National Mortgage
15 Association's ("Federal") motion for remand (Dkt. 7). The Court has reviewed the brief
16 filed in support of the motion and the remainder of the file and hereby grants the motion
17 for the reasons stated herein.

18 **I. PROCEDURAL HISTORY**

19 On May 12, 2011 Defendant Theodora Jackson ("Jackson") removed this unlawful
20 detainer action to this Court from the Pierce County Superior Court for the State of
21 Washington. Dkt. 1. On November 28, 2011, Federal filed a motion to remand. Dkt. 7.
22 Jackson did not respond.

23 **II. DISCUSSION**

24 As a threshold matter, failure to respond to a motion may be considered by the
25 Court as an admission that the motion has merit. Local Rule CR 7(b)(2). Jackson did not
26 respond to Federal's motion and the Court considers this failure as an admission that the
27 motion has merit.
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1 District courts have original jurisdiction of “all civil actions arising under the
2 Constitution, laws, or treaties, of the United States.” 28 U.S.C. § 1331. The presence or
3 absence of federal-question jurisdiction exists only when a federal question is presented
4 on the face of the plaintiff’s properly pleaded complaint. *Caterpillar Inc. v. Williams*,
5 482 U.S. 386, 392 (1987). The party seeking removal has the burden in establishing
6 federal jurisdiction. *Duncan v. Steutzle*, 76 F.3d 1480, 1485 (9th Cir. 1996). When the
7 district court does not have subject matter jurisdiction it must remand the action. 28
8 U.S.C. § 1447(c).

9 In this case, Jackson has failed to show any basis for federal subject matter
10 jurisdiction over this action. Federal argues that (1) there is no diversity jurisdiction
11 because the amount in controversy is \$10,000, which is less than the jurisdictional
12 minimum of \$75,000; (2) Jackson improperly removed the case more than thirty days
13 after the original complaint was filed; and (3) the original action could not have been filed
14 in federal court. Dkt. 7-1 at 1-4. The Court agrees on all counts.

16 III. ORDER

17 Therefore, it is hereby **ORDERED** that Federal motion for remand (Dkt. 7) is
18 **GRANTED** and this matter is **REMANDED** to Pierce County Superior Court.

19 DATED this 3rd day of January, 2012.

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22 BENJAMIN H. SETTLE
23 United States District Judge
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